

SENATE BILL No. 18

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-1; IC 6-1.1-29.5-0.5.

Synopsis: Limitations on debt. With respect to bonds payable from property taxes, special benefit taxes, or tax increment revenues, prohibits a local issuing body from: (1) issuing refunding bonds that have a repayment date that is beyond the maximum term of the bonds being refunded; (2) issuing refunding bonds unless the issuing body will realize a savings; or (3) using savings resulting from refunding bonds or surplus proceeds for any purpose other than to repay bonds or reduce levies. Requires the local issuing body to pay interest and principal on bonds on a schedule that provides for substantially equal installment amounts and regular payment intervals except when: (1) interest for a particular period has been paid from bond proceeds; or (2) the local issuing body determines that an irregular payment schedule is needed so that total payments on all bonds issued by the local issuing body will remain substantially equal. Limits to two years the period for which interest on bonds issued by the state or a local issuing body may be paid from bond proceeds. Limits the maximum term of bonds issued by the state or a local issuing body to 30 years. Provides that a capital project that will cost an amount that is at least equal to 0.5% of the total taxable property within the political subdivision is subject to review by a county board of tax and capital projects review even if the cost of the project is less than \$7,000,000.

Effective: July 1, 2008.

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November 20, 2007, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 18

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-1-5-1, AS AMENDED BY P.L.2-2006,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 1. The following terms as used in this chapter
4 have the following meanings:

5 (a) "Governing body" means the council, commission, board of
6 commissioners, board of directors, board of trustees, or other
7 legislative body in which the legislative powers of the issuing body are
8 vested.

9 (b) "Issuing body" means the state of Indiana, its agencies,
10 commissions, universities, colleges, institutions, political subdivisions,
11 counties, school corporations, hospital associations, municipal and
12 quasi-municipal corporations, special taxing districts, and any
13 corporation which has issued bonds payable directly or indirectly from
14 lease rentals payable by any of the foregoing issuing bodies, now or
15 hereafter existing under the laws of the state.

16 (c) "Bond" means any revenue bond, general obligation bond, or
17 advance refunding bond.

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(d) "Revenue bond" means any bond note, warrant, certificate of indebtedness, or other obligation, including a certificate or other evidence of participation in the lessor's interest in and rights under a lease, for the payment of money issued by an issuing body or any predecessor of any issuing body which is payable from designated revenues, rental payments, special benefits, taxes, or a special fund but excluding any obligation constituting an indebtedness within the meaning of the constitutional debt limitation and any obligation payable solely from special assessments or special assessments and a guaranty fund.

(e) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of an issuing body which constitutes an indebtedness within the meaning of the constitutional debt limitation.

(f) "Advance refunding bonds" means bonds issued for the purpose of refunding bonds first subject to redemption or maturing after the date of the advance refunding bonds.

(g) "Ordinance" means an ordinance of a city or town or resolution or other instrument by which the governing body of the issuing body exercising any power hereunder takes formal action and adopts legislative provisions and matters of some permanency.

(h) "Corporation which has issued bonds" means a corporation organized under IC 20-47-2 or IC 20-47-3, the laws of any state of the United States of America or of the United States of America, including any bank, trust company, or national association serving as a trustee under an indenture providing for issuance of bonds.

(i) "Local issuing body" means an issuing body other than the state of Indiana, its agencies, commissions, universities, colleges, or institutions, or any corporation that has issued bonds payable directly or indirectly from lease rentals payable by any of these issuing bodies. The term includes a district (as defined in IC 6-1.1-21.2-5) and any corporation which has issued bonds payable directly or indirectly from lease rentals payable by any issuing body described in this subsection.

(j) "Special benefit taxes" means a special tax levied and collected on an ad valorem basis on property for the purpose of financing local public improvements that:

- (1) are not political or governmental in nature; and**
- (2) of special benefit to the residents and property of the area.**

(k) "Tax increment revenues" means an allocation of:

- (1) ad valorem property taxes;**
- (2) state or local adjusted gross income taxes; or**

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(3) state or local gross retail and use taxes; to a redevelopment district that did not impose the taxes based on an increase in the assessed value, wages, sales, or other economic activity occurring in a designated area. The term includes allocations described in IC 5-28-26-9, IC 6-1.1-21.2-10, IC 12-19-1.5-7, IC 36-7-26-10, IC 36-7-27-8, IC 36-7-31-6, and IC 36-7-31.3-4.

(l) "Redevelopment district" refers to the following:

(1) An airport development zone under IC 8-22-3.5.

(2) A redevelopment district established under:

(A) IC 36-7-14; or

(B) IC 36-7-15.1.

(3) A special taxing district described in:

(A) IC 36-7-14.5-12.5(d); or

(B) IC 36-7-30-3(b).

(4) Another public entity to which tax increment revenues are allocated.

(i) (m) Words used in this chapter importing singular or plural number may be construed so that one (1) number includes both.

SECTION 2. IC 5-1-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The governing body of any issuing body may by ordinance provide for the issuance of bonds to refund outstanding bonds issued at any time by such issuing body or its predecessor, and to pay redemption premiums and costs of refunding to effect a saving to the issuing body. Issuance of bonds to refund outstanding bonds may also be made in order to pay or discharge all or any part of such outstanding series or issue of bond, including any interest thereon, in arrears or about to become due and for which sufficient funds are not available or to modify restrictive covenants in outstanding bonds impeding additional financing. To determine whether or not a savings will be effected, consideration shall be given to the estimated or known interest payable to the fixed maturities of the refunding bonds, the interest payable on the bonds to be refunded, the costs of issuance of the refunding bonds, including any sale discount, the redemption premiums, if any, to be paid, and the probable earned income from the investment of the refunding bond proceeds pending redemption of the bonds to be refunded.

(b) This subsection applies to bonds that are:

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax incentive revenues derived from property taxes.

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The provisions of subsection (a) requiring a savings to be effected apply to the issuance of all bonds to refund previously issued refunding bonds, including refunding bonds that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the savings requirement in subsection (a).

~~(b)~~ (c) This subsection applies to bonds that are not described in subsection (b). The provisions of subsection (a) requiring a savings to be effected do not apply to the issuance of bonds to refund previously issued refunding bonds if the statute under which the refunding bonds are issued expressly exempts such an issue from this savings requirement.

SECTION 3. IC 5-1-5-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) This section applies to bonds that are:

- (1) issued after June 30, 2008, by a local issuing body; and
- (2) payable from ad valorem property taxes, special benefit taxes on property, or tax incentive revenues derived from property taxes;

including bonds that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(b) The last date permitted under an agreement for the payment of principal and interest on bonds that are issued to retire or otherwise refund other revenue bonds or general obligation bonds may not extend beyond the maximum term of the bonds being refunded.

SECTION 4. IC 5-1-5-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) This section applies to bonds that are:

- (1) issued after June 30, 2008, by a local issuing body; and
- (2) payable from ad valorem property taxes, special benefit taxes on property, or tax incentive revenues derived from property taxes;

including bonds that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(c) Savings (as computed under section 2 of this chapter) that accrue from the issuance of bonds to retire or otherwise refund other bonds may be used only for the following purposes:

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(1) To pay the principal or interest, or both on:

(A) the refunding bonds; or

(B) other bonds, if the issuing body approves an ordinance authorizing the use of the savings to pay principal or interest on other bonds.

(2) To reduce the rate or amount of ad valorem property taxes, special benefit taxes on property, or tax incentive revenues imposed by or allocated to the local issuing body.

SECTION 5. IC 5-1-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. ~~As used in~~ **The definitions in this section apply throughout** this chapter:

(1) "Bonds" has the same definition that the term is given in IC 5-1-11-1.

(2) "Local issuing body" has the meaning set forth in IC 5-1-5-1.

(3) "Political subdivision" has the same definition that the term is given in IC 36-1-2-13.

(4) "Special benefit taxes" has the meaning set forth in IC 5-1-5-1.

(5) "Tax incentive revenues" has the meaning set forth in IC 5-1-5-1.

SECTION 6. IC 5-1-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Notwithstanding any other law, whenever:

(1) bonds are issued by any ~~political subdivision~~ **local issuing body** in the state of Indiana for any lawful purpose or project;

(2) the purpose or project for which the bonds were issued has been accomplished or abandoned; and

(3) a surplus remains from the proceeds of the bonds or investment earnings derived from the proceeds of those bonds;

the ~~political subdivision~~ **local issuing body** may use the surplus only in the manner prescribed by subsection (b), ~~or~~ (c), **or (d)**.

(b) The legislative body **or other governing body** of any such ~~political subdivision~~ **local issuing body** may by an order, ordinance, or resolution entered of record direct the disbursing officer of such ~~political subdivision~~ **local issuing body** to transfer the surplus bond proceeds or investment earnings to the fund of the ~~political subdivision~~ **local issuing body** pledged to the payment of principal and interest on those bonds, and upon such order, ordinance, or resolution being made, the disbursing officer shall make such transfer. Thereafter such funds transferred shall be used for the payment of the bonds to which the surplus bond proceeds or investment earnings are attributable or

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interest due for such bonds.

(c) **Surplus bond proceeds or investment earnings may be used by a local issuing body for the following purposes:**

(1) **To pay the principal or interest, or both on any other bonds of the local issuing body, if the local issuing body adopts an ordinance, resolution, or order authorizing the use of the surplus proceeds to pay principal or interest on the bonds.**

(2) **To reduce the rate or amount of ad valorem property taxes, special benefit taxes on property, or tax incentive revenues imposed by or allocated to the local issuing body.**

(c) (d) **This section applies to bonds that are not payable from ad valorem property taxes, special benefit taxes on property, or tax incentive revenues derived from property taxes.** Surplus bond proceeds or investment earnings may be used by a ~~political subdivision~~ **local issuing body** for the same purpose or type of project for which the bonds were originally issued, if:

(1) the fiscal officer of the ~~political subdivision~~ **local issuing body** certifies before or at the time of that use that the surplus was not anticipated at the time of issuance of the bonds; and

(2) the board or legislative body responsible for issuing the bonds takes action approving the use of surplus bond proceeds or investment earnings for the same purpose or type of project for which the bonds were originally issued.

SECTION 7. IC 5-1-14-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.3. The following definitions apply throughout this chapter:**

(1) **"Local issuing body" has the meaning set forth in IC 5-1-5-1.**

(2) **"Special benefit taxes" has the meaning set forth in IC 5-1-5-1.**

(3) **"Tax incentive revenues" has the meaning set forth in IC 5-1-5-1.**

SECTION 8. IC 5-1-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) Notwithstanding any other law, an issuer may use proceeds of its obligations to pay the reasonable cost of issuance of the obligations or to fund reasonably required debt service reserves to secure the payment of the obligations.

(b) Notwithstanding any other law, an issuer may use proceeds of the issuer's obligations to pay interest on the obligations for:

(1) a period not to exceed two (2) years from the date of issuance of the obligations; or

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(2) **if the obligations were issued before July 1, 2008, any longer period that ~~is was~~ permitted by ~~any other~~ another statute in effect when the obligations were issued.**

(c) Notwithstanding any other law, an issuer may reimburse itself for preliminary costs incurred in financing any project or purpose from proceeds of the obligations when issued.

SECTION 9. IC 5-1-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) If an issuer has issued obligations under a statute that establishes a maximum term or repayment period for the obligations, notwithstanding that statute, the issuer may continue to make payments of principal, interest, or both, on the obligations after the expiration of the term or period if principal or interest owed to owners of the obligations remains unpaid.

(b) This section does not authorize the use of revenues or funds to make payments of principal and interest other than those revenues or funds that were pledged for the payments before the expiration of the term or period.

(c) Except as otherwise provided by this section, the maximum term or repayment period for obligations may not exceed:

(1) thirty (30) years; or

(2) if the obligations were issued before July 1, 2008, any longer period that was permitted by another statute in effect when the obligations were issued.

SECTION 10. IC 5-1-14-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) **This section applies to obligations that are:**

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax incentive revenues derived from property taxes;

including obligations that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(d) An agreement for the issuance of obligations must provide for the payment of principal and interest on the obligations in nearly equal payment amounts and at regular designated intervals over the maximum term of the obligations except to the extent that:

(1) interest for a particular repayment period has been paid from the proceeds of the obligations under section 6 of this chapter; or

(2) the local issuing body authorizes a different payment

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1 **schedule to maintain substantially equal payments, in the**
 2 **aggregate, in any period in which the local issuing body pays**
 3 **the interest and principal on outstanding obligations.**

4 SECTION 11. IC 6-1.1-29.5-0.5, AS ADDED BY P.L.224-2007,
 5 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2008]: Sec. 0.5. This chapter applies only to a capital project
 7 that meets both of the following conditions:

8 (1) The capital project is a controlled project (as defined in
 9 IC 6-1.1-20-1.1). ~~except as provided in subdivision (2):~~

10 (2) ~~Notwithstanding IC 6-1.1-20-1.1(2),~~ The capital project will
 11 cost the political subdivision more than **the lesser of:**

12 **(A) seven million dollars (\$7,000,000); or**

13 **(B) an amount equal to five-tenths of one percent (0.5%) of**
 14 **the total taxable property within the political subdivision**
 15 **for the last assessment date.**

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